

Remarks

Claims 1, 6, 8, 11, 13 and 19 are pending. All pending claims have been rejected under Section 103 as being obvious over Toyoda (6229884) in view of Sakai (5613135). The Office has the burden of showing that the combination of Toyoda and Hiromutsu teach or suggest all claim limitations. MPEP § 2143.

Claim 1 recites determining if electronic scan data is present on a storage device after an interruption in electrical power and, if the electronic data is determined to be present on the storage device after the interruption in electrical power, resuming the transmission of the electronic data to an e-mail server or restarting the transmission of the electronic data to the e-mail server. Claims 8 and 13 contain similar limitations. After acknowledging that Toyoda does not teach these claim elements, the Office states:

"Sakai discloses in a system wherein the power supply is interrupted (suspend) while the contents of a memory are kept held (i.e., the backup power supply voltage BK is kept applied to the DRAMVCC 241), and the system restores (resumes) a state immediately before the power-OFF operation when the system is powered on again, the power supply voltage need not be supplied to the EEPROMVCC 243 in the suspend mode (Col 60 Lines 20-27)." Office Action page 3.

Apparently, the Office is asserting that Sakai teaches the above claim elements missing from Toyoda, although no explanation of any such assertion is provided. This assertion is not correct.

The passage in Sakai relied on by the Office (col. 60, lines 20-27) seems to teach only that power need not be supplied to a non-volatile memory (through EEPROMVCC 243) during a state of power suspension/interruption if backup power is supplied to a volatile memory (through DRAMVCC 241) and the system restores the state existing immediately before power-off upon resuming power-on. This passage in Sakai has no apparent relevance to the act of resuming the transmission of electronic scan data to an e-mail server or restarting the transmission of the electronic data to the e-mail server in general, and more specifically, to performing either or these actions in response to determining that the electronic scan data is present on a storage device after the interruption in electrical power.

If the Office disagrees, it is respectfully requested to specifically point out and explain the language in Sakai that might somehow reasonably be interpreted as

teaching, or even suggesting, (1) determining if electronic scan data is present on a storage device after an interruption in electrical power and (2) if the electronic data is determined to be present on the storage device after the interruption in electrical power, then resuming the transmission of the electronic data to an e-mail server or restarting the transmission of the electronic data to the e-mail server. Absent such a showing, the Office has failed to carry its burden of showing that the combination of Toyoda and Hiromutsu teaches or suggests all claim limitations, as required to establish a prima facie case of obviousness.

The Office also asserts without explanation that the motivation to combine Toyoda and Sakai "would have been to continue communication restoration from a power failure, as taught by Sakai." This assertion is not correct. Sakai does not teach "communication restoration from a power failure", at least not in the passage relied on by the Office. There is no communication of any kind taught or even suggested in Sakai col. 60, lines 20-27. Sakai is a very long patent. The Applicants have not studied Sakai to determine if it might teach at some other passage communication restoration in general, and more importantly, the specific claim elements missing from Toyoda. That burden rests with the Office. The Office must rely on objective evidence and make specific factual findings with respect to the motivation to modify references. MPEP § 2143.01; See, e.g., *In re Sang Su Lee*, 277 F.3d 1338 (Fed. Cir. 2002). The Office has thus far failed to make the required showing.

With due respect to the Office, Applicants note that the pending Office Action is the eight office action issued in this case dating all the way back to 2002, and still the Office has not cited knock-out art. The claimed invention is patentable and the pending claims should have long since been allowed. The case remains in condition for allowance.

The foregoing is believed to be a complete response to the pending Office Action.

Respectfully submitted,

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